IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Crl.MC.No. 3418 of 2007()

AGAINST THE ORDER IN CC 856/02 1222/03 IN CC.1210/2003 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

.....

PETITIONER: ACCUSED:

PARTHASARATHY, S/O.GOPALA PILLAI,
AREECKARA THEKKETHIL HOUSE, KANDIYOOR MURI,
MAVELIKARA TALUK.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN

RESPONDENTS: COMPLAINANTS & STATE:

---

1. K.G.SARANGADHARAN, S/O.GOPALAN,
RAJA SADANAM, KANDIYOOR MURI, MAVELIKARA.

2. SREERAJ, S/O.KRISHNA PILLAI,
SREEVIHAR, KANDIYOOR MURI, MAVELIKKARA.

3. G.KRISHNA PILLAI, SREEVIHAR,
KANDIYOOR, MAVELIKARA VILLAGE.

4. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R4 BY PUBLIC PROSECUTOR SRI. P. RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 3418 of 2007

- -

Dated this the 15th day of November, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in three separate prosecutions, all under Section 138 of the N.I. Act and initiated by three different complainants, i.e. respondents 1 to 3 herein. Except that all the three cheques had been issued by the petitioner as drawer and all the three cases are under Section 138 of the N.I. Act, there is admittedly no common feature in these three cases. The verdicts of guilty, conviction and sentence have now become final with the disposal of the revision petitions filed by the petitioner herein. At this stage the petitioner has come to this court with this petition under section 482 Cr.P.C. The petitioner has not paid the compensation amount directed to be paid. Consequently he is now compelled to undergo the default sentence. He has already been taken into custody. As per the decisions against him now, he will have to undergo the default sentence consecutively.

2. The short prayer made by the petitioner in this petition is that the powers under Section 482 Cr.P.C. may be invoked to save him from the trauma of having to undergo the default sentences consecutively. The learned counsel for the petitioner prays that powers under Section 427 Cr.P.C. may be invoked in this proceedings under Section 482 Cr.P.C. and concurrency may be directed.

3. On merits I find no substance in the plea at all. The offences are committed against three different individuals. In all the three cases the petitioner faces only the substantive sentence of imprisonment till rising of court. There is a direction under Section 357(3) Cr.P.C. that compensation amount must be paid to the respective complainants. There is also a default sentence imposed in all the three cases.

4. In the facts and circumstances of this case, I find absolutely no reason which can persuade this court to direct that the default sentences must be undergone concurrently. Maximum leniency has already been shown to the petitioner. He has been sentenced to a substantive sentence of imprisonment till rising of court only. The different complainants are to receive compensation. There is no

rhyme, reason, principle or precedent, which can justify a direction that the default sentences in the three different crimes must run concurrently. The prayer cannot, in these circumstances, be allowed.

5. Having said so on merits, I must also take note of the decision in **M.R.Kudva** v. **State of Andhra Pradesh** (AIR 2007 SC 568), where the Supreme Court has observed that powers under Section 482 Cr.P.C. cannot be invoked in an identical situation.

6. This Crl.M.C. is accordingly dismissed.

(R. BASANT)
Judge

tm